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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,292	11/14/2003	Nicholas Ashworth	502302	1155
23626	7590	05/04/2005	EXAMINER	
LEYDIG VOIT & MAYER, LTD 6815 WEAVER ROAD SUITE 300 ROCKFORD, IL 61114-8018			NORMAN, MARC E	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,292

Applicant(s)

ASHWORTH ET AL.

Examiner

Marc E. Norman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 11, 12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-9 and 13-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 8, 9, 13, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams in view of Dick et al.

As per claim 1, Abrams discloses a HVAC thermostat 200 (see column 2, lines 19-21 regarding the service assistance device being embodied within a thermostat) comprising user display screen 206, user function selection/scrolling means 210/212, and wherein the thermostat

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displays a service information on screen for the remotely located HVAC, the reminder including the service organization and contact information (Abstract, lines 7-9). Abrams does not specifically teach the service information comprising a reminder at the expiration of a reminder interval. As discussed previously, Dick et al. teaches a thermostat displaying a service reminder after a given interval (column 7, line 48 – column 8, line 13). While Dick is directed to a window AC unit rather than to a remote HVAC unit (as pointed out by Applicant), the Examiner submits that this is immaterial. The basic concept of displaying a service reminder is the same, regardless of the type of AC system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the service reminder of Dick et al. to the thermostat display system of Abrams for the purpose of further assisting the user in making sure the air conditioning system is properly maintained.

As per claims 2, 3, and 18, Dick et al. further teaches the interval being settable based on a run time (column 7, line 48 – column 8, line 1).

As per claim 4, Applicant has amended the claim to include the limitation the reminder interval is settable for a remotely located HVAC component. While, as discussed, Dick et al. is directed to a window unit rather than to a remote HVAC system, the system of Abrams is clearly directed to overcoming the problems of servicing remote HVAC components. See for example column 1, lines 13-33 regarding the problems with stickers placed on remote HVAC components – exactly the issue the Applicant is also trying to overcome. To the extent that these components require regular maintenance, it again would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the service reminder of Dick et al. to the thermostat

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display system of Abrams for the purpose of further assisting the user in making sure the air conditioning system is properly maintained.

As per claims 5 and 6, Abrams teaches the contact information being input by a service person during servicing/installation (see for example column 2, lines 5-8).

As per claim 8, Abram teaches paired scroll keys (210, 212).

As per claim 9, Dick et al. further teaches a visual display (e.g., "FILTER").

As per claim 13, Dick et al. further teaches an audible indicator (column 8, line 2).

As per claim 15, Dick et al. further teaches a reset function (column 7, line 56).

As per claims 16 and 17, Applicant has amended the claims to so that the information is entered in first and second fields. Entering information in fields is a common approach to data entry that would have been obvious to one of ordinary skill in the art for the purpose of assisting accurate input of contact information for the system of Abrams.

As per claim 20, the combination of Abram and Dick et al. teaches all features of the claim as already discussed.

Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams and Dick et al. as applied to claim 1 above, and further in view of Wehmeyer et al.

As per claim 7, Applicant requested that a reference be provided that soft keys are well known in the art of thermostats. Figure 6 of Wehmeyer et al. teaches a series of soft keys (635, 665, 690, etc.) in conjunction with displays (see for example column 3, lines 46-51 regarding soft keys). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply such soft keys to the thermostat of Abrams for the simple purpose of assisting the ease of data entry.

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Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams and Dick et al. as applied to claims 1 and 9 above, and further in view of Schurr et al.

As per claim 10, while this claim was previously indicated as allowable, new art has been found showing that backlit messages on thermostats are old and well known in the art (see Figure 2 of newly cited Schurr et al.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply such backlighting to the message of Dick et al. for the simple purpose of increasing visibility.

Allowable Subject Matter

Claims 11, 12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN

A handwritten signature in black ink, appearing to read 'Marc Norman', is positioned above the printed name.

**MARC NORMAN
PRIMARY EXAMINER**